

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF USAA
AS SUBROGEE OF MYRON SHULTZ IN
THE AMOUNT OF \$10,000.00 AGAINST THE
CITY OF ATLANTA ARISING FROM TWO
SEWER BACK UPS**

02-R-0325

WHEREAS, USAA as subrogee of MYRON SHULTZ has filed a claim against the City of Atlanta seeking damages arising out of two sanitary sewer back ups to its insured's property located at 635 Greystone Parkway, Atlanta, Georgia; and

WHEREAS, property owned by MYRON SHULTZ has been damaged due to sewer back ups resulting from the continuous malfunctioning of a sewer pump that was placed in the mainline on Pelham Road temporarily to correct a collapsed line on June 5, 2001; and

WHEREAS, the City of Atlanta was on notice but failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$10,000.00 and has agreed to accept this sum in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of USAA as subrogee of MYRON SHULTZ, be settled for the sum of \$10,000.00

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$10,000.00 be paid by the City of Atlanta to USAA as subrogee of MYRON SHULTZ, in satisfaction of any and all claims it may have stemming from damages sustained to its insured's property on or about June 22 and June 27, 2001, at 635 Greystone Parkway and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0494

Date: February 14, 2002

Claimant /Victim MYRON SHULTZ

BY: (Atty) (Ins. Co.) USAA

Address: P. O. Box 31643 Tampa, Florida 33631-3643

Subrogation: X Claim for Property damage \$ 10,000.00 Bodily Injury \$

Date of Notice: 7/30/01 Method: Written, Proper ☒ Improper ☐

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 6/22/01, 6/27/01 Place: 635 Greystone Parkway

Department PUBLIC WORKS Division Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained damages to his residence from two sanitary sewer back ups. An investigation determined that a sewer pump, which was placed inside the mainline on Pelham Road as a result of a collapsed line on June 5, 20001, malfunctioned and caused the backups to occur at the above location.

INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X

Pictures	Diagrams	Reports: Police	Dept Report	X	Other	X
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Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable ☒ X

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 10,000.00 Adverse Account charged: 1A01 2J01 **X** 2H01

Claims Manager: *[Signature]* Concur/date 02-15-82

Committee Action: _____ Council Action _____



P.O. Box 31643
Tampa, FL 33631-3643

RECEIVED

JUL 30 2001

MUNICIPAL CLERK

Burns

07/31/01

[Signature]

7/18/01

Council Of The City Of Atlanta
Municipal Clerk
City Hall
55 Trinity Avenue SW
Atlanta, GA 30335

ENTERED - 8-1-01 - SB
01L0494 - GWEN BURNS

Re Our Insured: Myron Schultz
Our Policy #: 605411
Loss Date: 6/22/01
Your Public Service #: 136552

To Whom It May Concern:

USAA Insurance Company insures Myron Schultz under a homeowner's policy, and we are in the process of handling a claim for damage to his home due to sewage back up. Our investigation reveals that the City of Atlanta was at fault for causing this back up due to work being done close by. City of Atlanta workers came out and voluntarily did some initial clean up and informed Dr. Schultz that this was indeed the responsibility of the city and provided claim forms to him to be submitted. Mrs. Schultz has spoken to a Mr. Williams, a Mr. Calahan, and was advised if she had any further questions, to contact Norman Koplon. She was advised to send her claim form to someone named Sherrie at the Law Department.

This letter is to advise you that USAA will be looking to the City of Atlanta for reimbursement of the damages paid out under the terms of Dr. Schultz's policy. In the near future, our Subrogation Department in Tampa, Florida will forward all pertinent documents to verify the payments made. Any claim number you would like for us to reference, along with any other address or contact name to whom we should forward this information to would be appreciated. If you have any questions, please feel free to contact me at (770) 682-9555.

Sincerely,

Paul Harrison

Paul Harrison, Staff Adjuster
United Services Automobile Association